

ORDINANCE NO. 2002-022

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 2-181 THROUGH 2-187 OF THE PALM BEACH COUNTY CODE AND REPLACING ORDINANCE NO. 79-3, AS AMENDED BY ORDINANCES 91-7, 98-53 AND 01-016; PROVIDING FOR TITLE; PROVIDING FOR DECLARATION OF NEED; PROVIDING FOR CREATION OF HOUSING FINANCE AUTHORITY; PROVIDING FOR MEMBERSHIP; PROVIDING FOR CONDUCT OF MEETINGS; PROVIDING FOR REMOVAL OF MEMBERS; PROVIDING FOR POWERS; PROVIDING FOR CONTRACTING AUTHORITY; PROVIDING FOR DISCLOSURE OF CONFLICTS OF INTEREST; PROVIDING FOR THE ISSUANCE OF BONDS; PROVIDING FOR RULES AND REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the legislature of the State of Florida enacted the Florida Housing Finance Authority Law, Florida Statute 159.601 - 159.623, in order to help alleviate a shortage of affordable housing in the State of Florida. The Florida Housing Finance Authority Law authorizes counties to create a Housing Finance Authority as a separate public body corporate and politic; and

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida declared a need for the establishment of a Housing Finance Authority in Palm Beach County pursuant to Resolution R-79-1150; and

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida enacted Ordinance 79-3 and created the Housing Finance Authority of Palm Beach County. Said Ordinance and amending Ordinances 91-7, 98-53 and 01-016, are codified in Sections 2-181 through 2-187 of the Palm Beach County Code; and

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida has determined there is a need to further amend Sections 2-181 through 2-187 of the Palm Beach County Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

I. - AMENDMENT AND REPLACEMENT: This Ordinance amends Sections 2-181 through 2-187 of the Palm Beach County Code and replaces Ordinance 79-3 as amended by Ordinances 91-7, 98-53 and 01-016 with the following:

1 **SECTION 1 - TITLE:** This Ordinance is enacted pursuant to the Florida Housing
2 Finance Authority Law, F.S. 159.601 through 159.623, as may be amended, Chapter 78-
3 89, Laws of Florida, and shall be known as the ~~“Ordinance Creating The~~ “Housing Finance
4 Authority of Palm Beach County, Florida Ordinance”.

5 **SECTION 2 - DECLARATION OF NEED:** It is hereby ascertained and found that
6 there is a shortage of affordable housing and of capital for investment in affordable housing
7 in Palm Beach County, Florida (the “County”), and there is hereby declared that there is
8 a need for a housing finance authority in the County to alleviate and remedy the
9 aforementioned affordable housing and investment capital shortage.

10 **SECTION 3 - CREATION OF AUTHORITY:** There is hereby created a separate
11 public body corporate and politic to be known as the Housing Finance Authority of Palm
12 Beach County, Florida (the “Housing Finance Authority”), consisting of seven (7) members
13 to be appointed by the Board of County Commissioners and which is directed to carry out
14 and exercise, without limitation except as is herein expressly stated or as provided in the
15 ~~Act~~ Florida Housing Finance Authority Law, all powers and authority set forth in and
16 contemplated by the ~~Act~~ Florida Housing Finance Authority Law. The Housing Finance
17 Authority shall have the power to make and issue such regulations, by-laws, and rules as
18 it deems necessary to implement its powers and functions. ~~Pursuant to the Act, the~~
19 ~~Authority shall not transact any business or exercise any powers under the Act until the~~
20 ~~Board of County Commissioners passes a resolution declaring the need for the Authority~~
21 ~~to function in order to alleviate the shortage of housing and capital for investment in~~
22 ~~housing in its area of operation.~~

23 **SECTION 4 - MEMBERSHIP:** Each commissioner of the Board of County
24 Commissioners shall nominate one (1) person to serve on the Housing Finance Authority.
25 The nomination shall be subject to the confirmation of a majority vote of the Board of
26 County Commissioners. The membership of the Housing Finance Authority should
27 represent the following components of the affordable housing industry: labor (organized
28 labor or trade association); financial (banking or similar institution or tax or financial
29 professionals, such as attorney, accountant, or financial planner); commerce (business
30 owner or representative or business organization representative); and low income or

1 affordable housing advocates (resident of affordable housing, representative of an
2 organization that advocates on behalf of low income persons for affordable housing or real
3 estate professional specializing in affordable housing). In compliance with Florida Statute
4 159.605(1), as may be amended, at least a majority of the membership shall have
5 knowledge in labor, finance or commerce, as defined within this Ordinance. All members
6 of the Housing Finance Authority must be residents of the Palm Beach County. ~~The Board~~
7 ~~of County Commissioners shall designate the Chairman of the Authority.; and until the~~
8 ~~members of the Authority are appointed, the Board of County Commissioners and the~~
9 ~~Chairman of the Authority shall have full authority to carry out the powers of the Authority~~
10 ~~under the Act. Not less than three (3) of the members of the Authority to be appointed by~~
11 ~~the Board of County Commissioners shall be knowledgeable in one of the following fields:~~
12 ~~labor, finance or commerce.~~ The terms of the members shall be four (4) years each, and
13 shall continue to be staggered in accordance with prior ordinances. ~~except that the terms~~
14 ~~of the initial members shall be as follows: two (2) members shall serve a term of one (1)~~
15 ~~year; one (1) member shall serve a term of two (2) years; one (1) member shall serve a~~
16 ~~term of three (3) years; and one (1) member shall serve a term of four (4) years, and a A~~
17 member shall hold office until his or her successor has been appointed and has qualified
18 unless such member has been removed pursuant to Section 6 herein. Each vacancy as
19 it occurs shall be filled for the remainder of the unexpired term. A member may not serve
20 more than two (2) consecutive complete four (4) year terms, after the effective date of this
21 Ordinance. If a member completes the term of a ~~member who has been removed or has~~
22 ~~resigned, such completion of a partial term shall not be counted toward the two (2)~~
23 consecutive term limit. A certificate of the appointment or reappointment of any member
24 shall be filed with the Clerk of the Circuit Court, and the certificate shall be conclusive
25 evidence of the due and proper appointment of the member. A member shall receive no
26 compensation for his or her services, but shall be entitled to necessary expenses, including
27 traveling expenses, incurred in the discharge of his duties. Within sixty (60) days of
28 appointment, new members shall schedule a training session with the County Attorney's
29 Office on member's obligations pursuant to this Ordinance, including, but not limited to,
30 conflicts of interest, financial disclosure, Florida Sunshine Law and the Florida Public

1 Records Law.

2 In ~~April~~ June of every year, commencing in 2002, the members of the Housing
3 Finance Authority shall nominate a Chairperson, and submit such nomination to the Board
4 of County Commissioners for approval. No member may serve more than two (2)
5 consecutive complete one (1) year terms as Chairperson after the effective date of this
6 Ordinance. The Board of County Commissioners retains the ultimate authority to
7 designate a Chairperson of the Housing Finance Authority.

8 **SECTION 5 - CONDUCT OF MEETINGS:** ~~The powers of the Housing Finance~~
9 ~~Authority granted by the Act shall be vested in the members of the Authority to office from~~
10 ~~time to time. Four (4)~~ A majority of the members currently appointed, shall constitute a
11 quorum, and action may be taken by the Housing Finance Authority upon a vote of a
12 majority of the members present. All meetings shall be governed by Roberts Rules of
13 Order. The Housing Finance Authority shall comply with the Florida Sunshine Law.
14 Reasonable public notice of all meetings shall be provided and all such meetings shall be
15 opened to the public at all times. Minutes of all meetings shall be maintained and copies
16 of such minutes shall be forwarded to the Board of County Commissioners within forty-five
17 (45) days of the meeting date.

18 **SECTION 6 - REMOVAL OF MEMBERS:** In compliance with Florida Statute
19 159.607, as may be amended, a member of the Housing Finance Authority may be
20 removed without cause by a three-fifths vote (at least five (5) votes) of the Board of County
21 Commissioners. A member of the Housing Finance Authority may be removed for neglect
22 of duty or misconduct in office by a majority vote of the Board of County Commissioners.
23 A member removed for cause, may only be removed after he or she has been given a copy
24 of the charges at least ten (10) days prior to the hearing thereon and has had an
25 opportunity to be heard in person or by counsel. If a member is removed for cause, a
26 record of the proceedings, together with the charges and findings thereon, shall be filed
27 in the Office of the Clerk of the Circuit Court. If a member is removed pursuant to this
28 Section, such removal shall occur immediately or at the time specified by the Board of
29 County Commissioners.

30 **SECTION 7 - ATTENDANCE:** Lack of attendance at meetings shall constitute

1 neglect of duty. Lack of attendance is defined as failure to attend three (3) consecutive
2 meetings or a failure to attend more than one-half of the meetings scheduled in a calendar
3 year. Participation for less than three-fourths of a meeting shall be the same as a failure
4 to attend a meeting. Excused absences due to illness, absence from the County, or
5 personal hardship, if approved by a majority vote of the Housing Finance Authority, shall
6 not constitute lack of attendance. Excused absences shall be entered into the minutes at
7 the next regularly scheduled meeting of the Board.

8 **SECTION 8 - CONFLICT OF INTEREST - DISCLOSURES:** In compliance with
9 Florida Statute 159.606, as may be amended, no member or employee of the Housing
10 Finance Authority shall acquire any interest, direct or indirect, in any qualifying housing
11 development or in any property included or planned to be included in such a development,
12 nor shall a member or employee have any interest, direct or indirect, in any contract or
13 proposed contract for materials or services to be furnished or used in connection with any
14 qualifying housing development. If any member or employee of the Housing Finance
15 Authority owns or controls, through acquisition prior to membership on the Housing
16 Finance Authority, an interest, direct or indirect in any property included or planned to be
17 included in any qualifying housing project, the member or employee shall immediately
18 disclose the same in writing to the Housing Finance Authority. Such disclosure shall be
19 entered upon the minutes of the Housing Finance Authority. Failure to disclose such
20 interest shall constitute misconduct in office.

21 In compliance with Florida Statute 159.609, as may be amended, the Housing
22 Finance Authority shall not finance the acquisition, construction, any reconstruction, or
23 rehabilitation of any qualifying housing development for its own profit or as a source of
24 revenue to the state or any local governmental unit.

25 In addition, the provisions of Palm Beach County Ethics Resolution R-94-693, as
26 may be amended, shall apply to Housing Finance Authority members.

27 All members of the Housing Finance Authority shall file with the Board of County
28 Commissioners full and public disclosure of their financial interest, substantially in the form
29 of the disclosure required of elected public officials pursuant to Section 8, Article II of the
30 State of Florida Constitution and Florida Statute Section 112.3144, as may be amended.

1 No later than May 1st of each year, County Administration shall mail a copy of the form
2 prescribed for compliance with full and public disclosure to Housing Finance Authority
3 members. Housing Finance Authority members shall return the completed form no later
4 than July 1st of each year. Failure to file a form may constitute neglect of duty.

5 **SECTION 9 - CONTRACTS OF THE AUTHORITY:** All contracts of the Housing
6 Finance Authority for the purchase of goods and services in excess of \$10,000 shall be
7 submitted to and approved, in each instance, by the Board of County Commissioners. All
8 purchases of goods and services shall be done in accordance with the competitive
9 processes as outlined in County ordinances and policies, including the rotation process
10 utilized for bond counsel and bond underwriters.

11 **SECTION 10 - BONDS OF THE AUTHORITY:** Prior to sale of any bonds, such
12 bonds shall be submitted to and approved, in each instance, by the Board of County
13 Commissioners and the award of the bonds, whether sold through public sale or negotiated
14 sale, shall also be approved by the Board of County Commissioners.

15 **SECTION 11 - RULES AND REGULATIONS:** ~~Any~~ All rules or regulations to be
16 promulgated by the Housing Finance Authority, including but not limited to, rules setting
17 forth standards or criteria for determining whether persons are eligible persons in the
18 program or projects are eligible projects and rules establishing criteria for scoring
19 applications and authorizing bond issues as the same are initially established or are
20 changed or amended from time to time, shall be submitted to and approved, in each
21 instance, by the Board of County Commissioners. The Housing Finance Authority, when
22 determining which projects and programs to fund, shall coordinate with the County, through
23 its Departments of Housing and Community Development and Planning, Zoning and
24 Building and its Commission on Affordable Housing, to ensure that affordable housing is
25 placed in the areas where the need has been identified by current studies.

26 **II. SEVERABILITY:** If any section, paragraph, sentence, clause, phrase, or word of
27 this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or
28 void, such holding shall not affect the remainder of this Ordinance.

29 **III. APPLICABILITY:** This ordinance shall constitute a uniform law applicable to all
30 unincorporated and incorporated areas in Palm Beach County to the extent provided by

1 the Act or other applicable provisions of law.

2 **IV. EFFECTIVE DATE:** The provisions of this Ordinance shall become effective upon
3 filing with the Department of State.

4 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
5 County, Florida, on this the 21 day of May, 2002.

6 DOROTHY H. WILKEN, CLERK

7 PALM BEACH COUNTY, FLORIDA, BY ITS
8 BOARD OF COUNTY COMMISSIONERS

9 By: Linda C. Hickman
10 Deputy Clerk

By: W. Newell
Warren H. Newell, Chairman

11 APPROVED AS TO FORM AND
12 LEGAL SUFFICIENCY

13 By: [Signature]
14 County Attorney

15 EFFECTIVE DATE: Filed with the Department of State on the 30 day of May,
16 2002.

17 G:\WPDATA\ENG\TKF\Housing-Finance-Authority-Ord.2002.wpd (05-21-02)

7 STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners certify this to be a
true and correct copy of the original filed in my office
on May 21, 2002.
DATED at West Palm Beach, FL on 6/13/02.
DOROTHY H. WILKEN, Clerk
By: Nicole Brown D.C.